IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

LA.App..No. 1257 of 2003(D)

LAR.50/2000 of SUB COURT, PAYYANNUR
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APPELLANT: RESPONDENT

STATE OF KERALA.

BY GOVERNMENT PLEADER SMT.K.R.DEEPA

RESPONDENTS: CLAIMANT

MUTTOM SAFFIA W/O. IBRAHIM,
RAMANANTHALI AMSOM.

BY ADV. SRI.M.SASINDRAN

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 17/10/2007, ALONG WITH LAA NO.1280 OF 2003 LAA NO.1258 OF 2003 LAA NO.1423 OF 2003 LAA NO.1327 OF 2003 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.Nos.1257, 1258, 1280,
1327 & 1423 of 2003

Dated this the 17th day of October, 2007

JUDGMENT

Kurian Joseph,J.

These are appeals filed by the State aggrieved by the judgment and decree passed by the Sub Court, Payyannur. The acquisition is for the purpose of Naval Academy 7th Gate. On behalf of the claimants they have taken out an Advocate Commission and the report of the Advocate Commissioner is marked as Ext.A1. Ext.A2 is copy of the sale deed executed on 9-9-1997. The reference court found that being an ex parte Commission not much reliance can be placed on the Commission report. As far as the sale deed is concerned, it was noted by the reference court that the Advocate Commissioner had not made any report with regard to the similarity and comparability of the property with that of the acquired property. What remains is only the interested evidence of one of the claimants, AW1. Despite the absence of evidence for a just and proper fixation of land value it is seen that the reference court granted enhancement to the tune of Rs.7,000/- per cent. The fixation made by the Land Acquisition Officer was only Rs.3,231/- per cent. The learned Government Pleader submits that in the above circumstances the case may be remitted to the reference

court so that a just and proper fixation of the land value can be made.

2. Having regard to the circumstances as above we are of the view that the reference court should make an attempt to have a just and proper fixation of the land value in the light of the evidence available on record. In view of the peculiar circumstances of the case whereby the report of the Advocate Commissioner is one prepared ex parte we are of the view that it is only in the interests of justice that an opportunity is given to both sides to adduce their evidence. Therefore, the judgment and decree are set aside and the cases are remanded to the reference court for fresh consideration. The parties shall appear before the reference court on 26-11-2007 and thereafter the reference court shall dispose of the case within another four months. Both sides are at liberty to adduce fresh evidence.

(KURIAN JOSEPH, JUDGE)

(HARUN-UL-RASHID, JUDGE)

ahg.

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A.Nos.1257, 1258, 1280,
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JUDGMENT

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